

# ENVIRONMENTAL PROTECTION COMMISSION[567]

## Adopted and Filed

Pursuant to the authority of Iowa Code section 455B.474, the Environmental Protection Commission hereby amends Chapter 134, “Underground Storage Tank Licensing and Certification Programs,” Iowa Administrative Code.

These amendments rescind rules 567—134.18(455B) to 567—134.28(455B) and adopt new rules 567—134.18(455B) to 567—134.29(455B) in Part C of 567—Chapter 134. In addition, the amendments revise the title of Part C and amend definitions and add new definitions to rule 567—134.17(455B).

Notice of Intended Action was published in the Iowa Administrative Bulletin on March 11, 2009, as **ARC 7620B**. The Department held three public hearings. The Department received four comments at the hearings. Three of the comments discussed industry’s concern over costs and liability stemming from the new duty to report, and one opposed the requirement that removers must be certified groundwater professionals before they can do tank closure sampling.

The following changes have been made to the Notice of Intended Action:

1. The Department has amended the duty to report rule, 567—134.22(455B), so that UST professionals report suspected and confirmed releases on a Department-prescribed form to the UST owner and operator with recommendations as to what further investigatory and response actions the owner and operator should take. The UST professional is not required to directly report suspected releases to the Department. The UST professional is required to report confirmed releases by sending a copy of the reporting form within seven days to the Department. Rule 567—134.22(455B) now reads as follows:

**“567—134.22(455B) Duty to report.** Any UST professional licensed under Part C of this chapter shall timely report suspected and confirmed releases within 24 hours of discovery (6 hours if a hazardous condition exists) as described in rule 567—135.6(455B) to the owner and operator on a form prescribed by the department. The UST professional shall recommend to the owner and operator any release confirmation actions or other investigatory and response actions which in the UST professional’s judgment would be consistent with the requirements of rule 567—135.6(455B). The UST professional shall submit a copy of the form to the department within seven days of discovering a confirmed release. The UST professional is not responsible for reporting a suspected release as described in rule 567—135.6(455B) directly to the department.”

2. The Department has chosen to adopt the rule that allows a licensed UST remover to conduct the soil and groundwater sampling required as part of a UST closure investigation if the remover is a certified groundwater professional under 567—Chapter 134, Part A, or if the remover contracts with a certified groundwater professional. The Department feels this is necessary to ensure that reliable soil and groundwater testing occurs as part of the closure process. Subrule 134.28(2) has been revised accordingly. The Department intends to initiate rule making to amend 567—subrule 135.15(3) to further clarify that certified groundwater professionals will be required to conduct the closure investigation unless the Department approves an alternative as part of the permanent closure of USTs. Subrule 134.28(2) now reads as follows:

**“134.28(2) Responsibilities and documentation of work performed.** A licensed remover shall be on site during the performance of all UST closure-related work, including subcontracted work, for which the owner/operator has contracted to have completed by the remover. Removers are responsible for ensuring that all work performed complies with the safety requirements of OSHA. Removers shall submit to the department a notification of closure form 30 days prior to the scheduled removal or fill in place as required in 567—subrule 135.15(2). Removers shall submit to the department the closure report within 45 days of removal or fill in place as required in 567—paragraph 135.15(3)“e.” Removers shall ensure that all local permits and notice requirements are satisfied. Removers shall have on their person at all times while on a UST job site a 40-hour general site worker program identification card or any valid refresher card that complies with OSHA standards. The closure investigation required by 567—subrule 135.15(3)

may be conducted by a licensed remover if the remover is a certified groundwater professional licensed under Part A of this chapter. If the remover is not a certified groundwater professional, the remover may subcontract with a certified groundwater professional.”

3. An amendment has been added to update the implementation sentence for Part C.

These amendments are intended to implement Iowa Code section 455B.474.

These amendments shall become effective on August 19, 2009.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [134.17 to 134.29] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 7620B**, IAB 3/11/09.

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[For replacement pages for IAC, see IAC Supplement 7/15/09.]